

Feb 13, 2020

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MICHAEL C. RADVANYI,

Plaintiff,

v.

C/O BARNES,

Defendant.

No. 2:19-cv-00353-SMJ

**ORDER DISMISSING
COMPLAINT**

By Order filed November 7, 2019, the Court advised Plaintiff Michael C. Radvanyi, then a pretrial detainee at Spokane County Detention Services, of the deficiencies of his complaint and directed him to amend or voluntarily dismiss within sixty days. ECF No. 11. Plaintiff subsequently advised the Court of his release from incarceration. ECF Nos. 15, 16 & 18. Plaintiff is proceeding *pro se* and *in forma pauperis*. Defendant has not been served.

In the November 7, 2019 Order, the Court found that Plaintiff's allegations were insufficient to state a claim upon which relief may be granted against Defendant Barnes. ECF No. 11. Although given the opportunity to do so, Plaintiff did not amend his complaint to state a viable claim for relief. The Court cautioned Plaintiff that if he failed to comply with the directives in the order, the Court would

1 dismiss the complaint seeking both monetary damages and his release from
2 incarceration. Plaintiff did not comply with the Court's Order and has filed nothing
3 further in this action, other than the notices of his change of address.

4 Therefore, for the reasons set forth above and in the Order to Amend or
5 Voluntarily Dismiss Complaint, ECF No. 11, the complaint is subject to dismissal
6 for failure to state a claim upon which relief may be granted under 28 U.S.C.
7 §§ 1915(e)(2) and 1915A(b)(1).

8 Accordingly, **IT IS HEREBY ORDERED:**

9 1. Plaintiff's Complaint, ECF No. 1, is **DISMISSED WITHOUT**
10 **PREJUDICE** to Plaintiff pursuing appropriate state court and federal
11 *habeas corpus* remedies.

12 2. Based on the Court's reading of *Washington v. Los Angeles County*
13 *Sheriff's Department*, 833 F.3d 1048 (9th Cir. 2016), this dismissal
14 will NOT count as a "strike" under 28 U.S.C. § 1915(g).

15 3. The Clerk's Office is directed to **ENTER JUDGMENT** and **CLOSE**
16 this file.

17 //

18 //


19 //

20 //

1 4. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal
2 of this Order would not be taken in good faith.

3 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
4 forward a copy to *pro se* Plaintiff at his last known address.

5 **DATED** this 13th day of February 2020.

6 
7 SALVADOR MENDOZA, JR.
 United States District Judge